



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Draft

Conducted a Regular Business Meeting on:

Thursday, May 13, 2010

9:00 A. M.

Assembly Hearing Room #444

State Capitol

Sacramento, California 95814

AGENDA

For questions regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or by facsimile at (916) 445-0738. This Notice and associated staff reports can be accessed electronically at the SMGB's Internet web site at: <http://www.consrv.ca.gov/smgb/> (note: Agenda reports should be available electronically approximately one week prior to the scheduled meeting/hearing date).

The SMGB requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office no later than 15 days prior to the scheduled meeting date, and must indicate the Agenda Item to which it relates. For written material in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 12 copies. The SMGB will not reproduce these types of documents. Comments on Agenda Items will be accepted by electronic mail, and are subject to the same conditions set forth for other written submissions.

Individuals are responsible for presenting their own projects at the meeting.

[NOTE: Times are approximate. The chairman may alter the hearing start time or agenda item order during the meeting.]

I. Call to Order (Garner)

II. Pledge of Allegiance

III. Roll Call and Declaration of a Quorum

The meeting was called to order at 9:15 A. M. by Chairman Garner, with all members present, and a quorum was declared.

IV. Director's Report (Luther, Department of Conservation) [Information]

Director Bridgett Luther reported on the following:

- Last week, Natural Resources Secretary Lester Snow visited the Department of Conservation. He met our Executive Staff, including Executive Officer Testa, toured the CGS office, and reviewed the new State Geology and Fault maps produced by CGS.
- Last week, DOC testified before an Assembly Budget Sub-Committee regarding our Spring Finance Letters. Nothing controversial was presented.
- Last month, DOC testified before the Senate Budget Subcommittee hearing regarding the same Spring Finance Letters. Nothing controversial was presented.
- The Department of Conservation held a terrific press conference in San Jose last month to officially kick off the California Geological Survey' 150th Anniversary. About 40 media outlets covered it, including the LA Times and NY Times. Television and radio were also present.
- An Iraqi oil delegation met with our State Oil & Gas Supervisor and some of her team from our Division of Oil, Gas and Geothermal Resources in Bakersfield. The delegation toured the Chevron facility in Kern County and discussed numerous oil recovery issues.
- The Governor's office is putting a greater emphasis on transparency. All departments recently completed an exercise identifying reports, audits and investigations that can be posted on department websites.

- Office of Mine Reclamation Report (O'Bryant) [Information]

Dennis O'Bryant, Assistant Director, Office of Mine Reclamation (OMR), reported on the following activities:

- The Abandoned Mines Land Unit (AMLU) received from USEPA funds to provide chemical remediation at a new site. The AMLU had a former partnership with USEPA at Bodie State Historic Park which was favorably received.
- OMR appealed a decision by Kern County to approve a reclamation plan for the proposed Golden Queen Mine at Soledad Mountain.
- An Order to Comply issued by the Director to the operators of the New Era Mine was upheld by the SMGB at its last regular business meeting, and OMR is currently working with the County on financial assurance issues, among other matters.
- A series of SMARA workshops are scheduled with the next one to be held in Humboldt County.

SMGB Member Licari inquired about the Lead Agency Review Team (LART) program, and expressed that ultimately if a lead agency is deficient in meeting its obligations and responsibilities as a lead agency, the SMGB may need to consider taking certain actions, and that the SMGB needs to have some input. It was his understanding that about 9 or 10 counties are being reviewed. For example, Member Licari would like to know how a lead agency is selected for review, what is the procedure, is there a checklist provided to the lead agency in advance, and what are the standard LART documents or processes being produced for the lead agency benefit. A request that either the Surface Mining Standards or the SMGB should have some input on procedures being



implemented has previously been made by certain board members and Surface Mining Standards Committee Chair Lund.

- Mr. O'Bryant stated that presentations were previously presented to the SMGB, and some reports have been provided to the Executive Officer for comment. This is a Department program and the SMGB should show interest, but oversight may not be the appropriate role or term for the SMGB. LART selected the easiest lead agencies first, and now the selection process is performed in a random manner. There is no selection procedure. Member Licari stated that transparency is required, and oversight is, in part, the SMGB's role. SMGB Chairman Garner stated that based on earlier discussions the review was to be risk based and incorporated, as appropriate.

- State Geologist's Report (Parrish) [Information]

Dr. John Parrish, State Geologist and Director of the California Geological Survey, reported on the following activities:

- CGS continues with its celebration of its 150th anniversary, with April 21st as its official anniversary date, with a symposium being held at the upcoming Geological Society of America Cordilleran Section – American Association of Petroleum Geologists Pacific Section – Society of Petroleum Engineers Section joint meeting being held in Anaheim in late May.
- On April 27, a display of CGS's activities and products was provided at the Tech Museum in the City of San Jose, and a request was made for CGS to have a permanent display likely in the earthquake preparation area.
- A meeting of the Western States Siesmic Policy Council was held yesterday. The State Geologist serves as chair. FEMA, out of Washington, D.C., participated, among others.
- A National Digital Mapping Conference being hosted by CGS is to be held next week. CGS produces more geologic maps and derivative maps, than any other survey, and those responsible for producing these types of maps will be participating.
- An Engineering Geologist assigned to the Menlo Park office was recently hired.

V. Chairman's Report (Garner) [Information]

No information report was provided.

VI. Executive Officer's Report (Testa) [Information]

Executive Officer Stephen Testa Executive Officer' summarized the following recent and upcoming activities of the SMGB:

- The fiscal year ends on June 31. The SMGB remains under budget for this current fiscal year.
- A request from OMR to agendize designation of a lead agency for the McLaughlin Mine located in Napa, Lake and Yolo Counties, was received, and this matter will be on the SMGB's June Agenda to be heard.
- Follow-up by OMR of public complaints received by the SMGB pertaining to Butte, Marin and Mendocino Counties, and City of Lake Elsinore, is ongoing.
- A classification petition for the Slaughterhouse Canyon area, San Diego County, was recently received, and forwarded to CGS for preliminary review.
- Designation hearings to receive public comment on proposed sectors to be considered for designation by the SMGB are being scheduled in late July. The hearings will be held in Bakersfield and Riverside.
- The Executive Officer continues to work on the Alquist-Priolo Technical Advisory Committee report, as time permits.



VII. Ex-Parte Communication Disclosure [Information]

[Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.]

No Ex-Parte information was presented.

VIII. Good of the Meeting [Information]

[This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. All persons wishing to address the SMGB should fill out a speaker card and present it to the Secretary so that the Chair can determine the number of persons who wish to speak. Speakers are limited to three minutes except by special consent of the Chairman.]

No Good of the Meeting information was presented.

IX. Consent Items [Action]

[All the items appearing under this section will be acted upon by the SMGB by one motion and without discussion; however, any Board member wishing to discuss a particular item may request the Chairman to remove the item from the Consent Calendar and consider it separately under Continued Business or New Business.]

1. Approval of Minutes, March 11, 2010, Regular Business Meeting.

Board Member Tepel moved to approve the minutes. Board Member Licari seconded and the motion carried with a unanimous voice vote.

2. Approval of Minutes, April 15, 2010, Regular Business Meeting.

Board Member Tepel moved to approve the minutes. Board Member Licari seconded and the motion carried with a unanimous voice vote.

X. Continued Business [Action]

[These business items have been continued from a previous meeting/hearing.]

3. Acceptance of Inspection Report for the Richmond (Chevron) Quarry (CA Mine ID #91-07-0006), Mr. Brian Peer (Agent), Dutra Materials (Operator), City of Richmond.

Executive Officer Testa stated that the inspection report for the Richmond Quarry was revised, as appropriate, following review of new information and comments received by the operator.

Board Member Licari moved to accept the inspection report. Board Member Lund seconded and the motion carried with a unanimous voice vote.

4. Inspection reports pursuant to PRC Section 2772(b) for the following surface mining operations may be presented for SMGB information. (NOTE – these reports were accepted by the SMGB at their April 15, 2010 regular business meeting as being complete and in accordance with the SMGB's requirements.) **[Information]**

- Weber Creek Quarry (CA Mine ID #91-09-0002), County of El Dorado.
- Diamond Quarry (CA Mine ID #91-09-0003), County of El Dorado.
- Chile Bar Slate Mine (CA Mine ID #91-09-0004), County of El Dorado.



- Lawyer Pit (CA Mine ID #91-09-0010), County of El Dorado.

Executive Officer Testa stated that the inspection reports were previously accepted by the SMGB, but presentation of such reports was deferred. Will Arcand, Engineering Geologist provided a synopsis of his inspections.

No action taken.

XI. New Business [Action]

5. Approval Consideration for Exemption from the Requirements of the Surface Mining and Reclamation Act (SMARA, Public Resources Code Section 2710 et seq.) Pursuant to Section 2714(f) for the Black Rock 1, 2 and 3 Project, County of Imperial.

The Executive Officer stated that SMARA allows for a one-time exemption from SMARA for certain surface mining operations should the Board find that the operation is 1) of an infrequent nature, and 2) involve only minor surface disturbances, pursuant to PRC 2714(f). The California Energy Commission has requested clarification as to whether a borrow site in Imperial County is subject to SMARA or eligible for an exemption from SMARA. The Executive Officer determined that the project was subject to SMARA, thus, a one-time exemption from SMARA is being considered. The project incorporates a 34-acre borrow site located approximately 1,000 feet southeast of the plant site on property owned by same landowner as the plant site (California Energy, parent company of CE Obsidian). The volume of material exported from the site will be up to 300,000 cubic yards. The material from the borrow site is intended to be used for construction and flood control purposes associated with a new geothermal power plant project. The material to be excavated will be used solely for the construction of foundations and a perimeter berm around the 160-acre geothermal power plant site in order to meet Imperial County flood control requirements. No material will be sold. Topsoil on-site will be salvaged and replaced after backfilling with topsoil stripped from plant site during initial grading activities. The activity is temporary (12-18 months in duration), and the applicant will be required to restore the borrow site to its present use (agriculture) immediately after it is no longer needed for preparation of the power plant site. Half of the borrow site is designated Prime Farmland but not under Williamson Act contract (verified by Imperial County). Land use is compatible with Imperial County zoning and land use ordinances (A-3-G = Agriculture/industrial with geothermal overlay). The SMGB is considering granting a one-time exemption for this project.

Board Member Tepel moved to grant the exemption request. Board Member Lund seconded and the motion carried with a unanimous voice vote.

6. Approval Consideration for Exemption from the Requirements of the Surface Mining and Reclamation Act (SMARA, Public Resources Code Section 2710 et seq.) Pursuant to Section 2714(f) for the Tea Pot Dome Water District Groundwater Recharge Basin, County of Tulare.

This matter was deferred.

7. Adoption of State Mining and Geology Board's Final Decision on Vested Rights Pertaining to Big Cut Mine (CA Mine ID #91-09-00XX), Diane Anderson (Agent), Rick Churches (Operator and Claimant), El Dorado County.

Executive Officer Testa stated that the SMGB is the lead agency for El Dorado County, and on March 13, 2009, received the filing of the administrative record for the conduct of a vested rights determination for the proposed Big Cut Mine surface mining operation located in El Dorado County. The public hearing was held on April 15, 2010. At this hearing, the



SMGB accepted the findings set forth by the Executive Officer, and determined that a vested right did not exist for all Sections pertaining to the Big Cut Mine. The SMGB is considering adoption of its Final Decision on vested rights for the Big Cut Mine, El Dorado County, Resolution 2010-06, pursuant to Article 15 CCR Section 3964. Based on recent correspondence received from the claimant's legal counsel, additional time was requested by the Executive Officer to review comments offered and respond appropriately.

Board Member Lund moved to deferred adoption. Board Member Lane seconded and the motion carried with a unanimous voice vote.

XII. Special Reports and Department Presentations [Possible Action]

[Based on these Reports, the Chair may instruct the SMGB staff to initiate administrative actions.

8. California Geological Survey Status Report on the magnitude 7.2 Sierra El Mayor – Cucapah Earthquake of Sunday, April 4, 2010, Baja California, Mexico. **[Information]** Executive Officer Testa informed the SMGB that following the earthquake in northern Baja California, initially referred to as the Easter Earthquake, and subsequent earthquake swarms that impacted the region, CGS investigated surface rupture features north of the United States-Mexico border, and offered to provide an overview of their activities and observations.

- Tim McCrink, Senior Engineering Geologist with CGS, presented a synopsis of CGS's earthquake reconnaissance of the M 7.2 El Mayor Cucapah Earthquake of April 4, 2010.

No action taken.

9. Report on California Geological Survey's Coastal Inundation Mapping and Tsunami Program. **[Information]**

Executive Officer Testa stated that an overview of CGS's involvement in the California Tsunami Program was requested by Member Tepel. CGS was pleased to have an opportunity to provide an overview of their role and activities.

- Rick Wilson, geologist with CGS, presented a synopsis of CGS's role in California Tsunami Program, and in the preparation of tsunami inundation maps.

No action taken.

XIII. SMGB Committee Reports [Information and Possible Action]

- Geohazards Committee
 - Alquist-Priolo Technical Advisory Committee (Chairperson Tepel)
- Surface Mining and Standards Committee (Chairperson Lund)
- Minerals and Geologic Resources Committee (Chairperson Tepel)
- Policy and Legislation Committee (Chairperson Baca)

No Committee reports were provided.

XIV. Continuing Business [Information]

[This item is provided as an opportunity for any SMGB member to receive information on or any items of continuing interest to the SMGB.]



XV. New Business [Information]

[This item is provided as an opportunity for any SMGB member to bring any item of new business to the SMGB's attention for further discussion and further action.] Items to be discussed:

XVI. Executive Session (Closed to the Public) [Possible Action]

[The SMGB will discuss information from its legal counsel on pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.] Items to be discussed:

- a). Brunius vs. SMGB, Case # PC 20010449, El Dorado County Superior Court.
- b). Kibbe Area Planning and Protection Association; Forest Tull vs. SMGB; A. Teichert & Sons, Inc.; and DOES 1010, Case No. 34-2007-00882657-CU-WM-GOS, Sacramento County Superior Court.
- c). An un-named case where there is potentially significant exposure to litigation against the Board.
- d). An un-named case where there is potentially significant exposure to litigation against the Board.

Re-open Regular Business Session, Announce Results of Executive Session

SMGB's Legal Counsel, Mr. Richard Thalhammer, Deputy Attorney General, announced that the SMGB met in Executive Session and no action was taken.

XVII. Announcements of Future Meetings

June 10, 2010, was announced as the next meeting, and the City of Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 12:30 P.M.

APPROVED

Erin Garner, Chairman

Stephen M. Testa, Executive Officer

